

ORIGINAL

555 New

1 COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

2

3 Name Carmichael Raynell

4

(Last)

(First)

(Initial)

5

Prisoner Number D-25366

6

Institutional Address San Quentin State Prison-2N1-L

7

San Quentin, CA. 94974

8

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 Raynell Carmichael

12 (Enter the full name of plaintiff in this action.)

13 Roderick Hickman, James E. Tilton,
14 Secretary of the Department of
Correction & Rehabilitation)
15 Robert Sillen-Federal Receiver)
Health Care, Medical physician at)
16 High Desert & San Quentin State)
Prison, Et, et. al.,)
(Enter the full name of the defendant(s) in this action))

CV 07 5622

17 Case No.

(To be provided by the clerk of court)

18 **COMPLAINT UNDER THE**
CIVIL RIGHTS ACT,
42 U.S.C §§ 1983

CW

(PR)

E-filing

19 *[All questions on this complaint form must be answered in order for your action to proceed.]*

20 1. Exhaustion of Administrative Remedies

21 **[Note: You must exhaust your administrative remedies before your claim can go**
forward. The court will dismiss any unexhausted claims.]

22 A. Place of present confinement San Quentin State Prison

23 B. Is there a grievance procedure in this institution?

24 YES NO

25 C. Did you present the facts in your complaint for review through the grievance
26 procedure?

27 YES NO

28 D. If your answer is YES, list the appeal number and the date and result of the

1 appeal at each level of review. If you did not pursue a certain level of appeal,
2 explain why.

3 1. Informal appeal In accordance with ADA-Americans with
4 Disabilities Act. The decision rendered on this CDC
5 CDC-1824-constitutes a decision at the First Level of
6 review, are to proceed to second Level PARTIALLY
7 GRANTED-NOVEMBER 17, 2006, 2. First

8 formal level "Same as above"

9 3. Second formal level July 17, 2007, appeal is PARTIALLY
10 GRANTED in that, the test recommend by Dr. shavit was
11 performed,also other consultations recommended by Aug
12 29, 2006, Dr. Madrilejo April 26, 2007, Dr. O'Connell
13 May 25, 2007, has not been performed 4 Third

14 formal level AUGUST 16, 2007, Director's Level Decision
15 Appeal is DENIED Inmate is dissatisfied due to 2½-plus
16 years untreated bone disease, the continue Delays,
17 Denial and Obstruction of treatment. the Bone disease
18 Spreading to Multiples Bones Sites.

19 E. Is the last level to which you appealed the highest level of appeal available to
20 you?
21

22 YES NO

23 F. If you did not present your claim for review through the grievance procedure,
24 explain why.
25

26 II. Parties

27 A. Write your name and your present address. Do the same for additional plaintiffs,
28 if any.

29 Raynell Carmichael, D-325366

30 San Quentin State Prison-2N1-L

31 San Quentin, CA. 94974

32 B. Write the full name of each defendant, his or her official position, and his or her

ORIGINAL

1 Raynell Carmichael, D-25366
2 San Quentin State Prison-2N-1-L
3 San Quentin, CA. 94974

4
5 In Propria Persona

6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 Raynell Carmichael

9 Plaintiff

Case No. _____

10 CIVIL RIGHTS

11 VS. COMPLAINT

12

13 James E. Tilton, Secretary of The Department Demand For Jury
14 of Corrections and Rehabilitation:

15 Warden, High Desert State Prison, Chief Medical Trial
Officer, Dr. Richard W. Sandhan, M.D., Dr. Roche,
M.D; Dr. Jeffery Rohlfing, M.D., Dr. Dial, M.D.

16 Dr. Dickson, M.D.-Warden, Robert Ayres,
San Quentin State Prison, Chief Medical Officer,
Dr. Jack ST. Clair, M.D. CMO-Dr. Karen Saylor,
M.D. CMO-Dr. Rene Kanan, M.D., Dr. Sundarson, M.D.

17 Dr. Wilson, M.D. Dr. Claren David, M.D. Dr. Indu
Zalpuri, M.D. Dr. Emami, M.D. Dr. Slater, M.D.

18 Dr. Daszko, J. M.D. Dr. Corzine, M.D.-Practitioner
Erickson, and Hopking: DOES 1 thru 10, inclusive,

19
20 Defendants.

21

22 I. JURISDICTION

23
24 1. This is civil action authorized by 42 U.S.C. section 1983
25 to redress the deprivation, under color of state law, of rights
26 secured by the constitution of the united states. The court has
27 jurisdiction under 28 U.S.C. section 1331 and 1343 (a) (3). and over

28

1 all pendent law. Plaintiff seeks compensatory damages, declaratory
2 relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff claim
3 for injunctive relief are authorized by 28 U.S.C. Section 2883 &
4 2284 and Rule 65 of the Federal Rules of Civil Procedure. Plaintiff
5 proceeds under 28 U.S.C. § 1915.

6

7 2. The NORTHERN DISTRICT OF CALIFORNIA. is an appropriate venue
8 under 28 U.S.C. Section 1391 (b)(2) because it is where the events
9 giving rise to this claim occurred.

10

11 parties to the action

12

13 II. PLAINTIFFS

14 3. Plaintiff, Raynell Carmichael, is and at all times mentioned
15 herein a prisoner of the State of California in the Custody of the
16 California Department of Corrections and Rehabilitation. He was,
17 at all times mentioned herein, confined at Susaville, California.
18 He is currently confined in San Quentin state Prison, in San Quentin,
19 California.

20

21 III. DEFENDANTS

22 4. Defendant, RODERICK HICKMAN, was the Seretary of the California
23 Department of Corrections and Rehabilitation of atal times mentioned
24 herein while at High Desert State Prison. Drefendent, James E. Tilton,
25 is the Secretary of the California Department of Correction and
26 Rehabilitation at all times mentioned herein at all times mentioned
27 herein. They was legally responsible for the care and treatment of
28 all inmates housed in the CDCR. They was likewise legally responsible

1 for the acts and / or omissions of all arms, agencies, and
2 departments of the CDCR. Defendant HICKMAN, Tilton, was in and is
3 in a position of authority where they knew or should have known
4 that the policies and practices of the CDCR and its agents were
5 subjecting plaintiff to violations of his Constitutional Rights.
6 Defendant HICKMAN & Tilton, is being sued in his individual and
7 official capacity.

8

9 5. Defendant, Robert Sillen, is the Federal Receiver of the
10 Department of Correction and Rehabilitation of the State of California
11 California, He is legally responsible for the over all operation of
12 the California Prison Health Care Receivership CORP.

13

14 6. Defendant, Richard W. Sandhan, M.D. is and was at all times
15 mentioned herein at High Desert State Prison, Defendant Sandhan, M.D.
16 is responsible for all operations of the Medical Department at
17 High Desert State Prison. He is also responsible for the care and
18 treatment of all prisoners under the umbrella of his authority.
19 Defendant Sandhan, M.D. is likewise responsible for all medical
20 personnel under his command and all treatment operation performed
21 by same. Defendant Sandhan, M.D. is in a position of authority where
22 he knew or should have known that the acts and / or omissions of
23 the Medical Department and its staff toward plaintiff's Serious
24 medical condition was such that plaintiff would suffer irreparable
25 injury and deny him the rights afforded him by the laws of this
26 state and the U.S. Constitution. Defendant Sandham, M.D. is being
27 sued in his individual and official capacity.

28

1 7. Defendant, Dr. Roche, Chief surgeon, M.D. is and was at all
2 times mentioned herein a physician employed by the Medical Department
3 at High Desert State Prison. Dr. Roche, M.D. was legally responsible
4 for the care and treatment of all prisoners under referral by the
5 appropriate administrative medical procedures. Defendant Dr. Roche,
6 M.D. Chief surgeon, was in a position of authority where by he
7 knew or should have known that his acts and / or omissions would
8 subject plaintiff to irreparable harm and denial of his rights
9 under the laws of this state and the U.S. Constitution. Defendant
10 Dr. Roche, M.D. is being sued in his individual and official capacity.

11
12 8. Defendant, Dr. Jeffery William Rohlfing, M.D. an Orthopedic
13 surgeon, is and was at all times mentioned herein a physician
14 employed by the Medical Department at High Desert State Prison.
15 Dr. J.W. Rohlfing, M.D. was legally responsible for the care and
16 treatment of all prisoners under referral by the appropriate
17 administrative medical procedures. He was responsible for the care
18 and treatment of all inmates assigned to Yard-3, wherein plaintiff
19 was housed. Defendant, Dr. Rohlfing, M.D. was in a position of
20 authority where by he knew or should have known that his acts and
21 /or omissions would subject plaintiff to irreparable harm and the
22 denial of his rights under the laws of this state and the U.S.
23 Constitution. Defendant Dr. Jeffery William Rohlfing, M.D. is being
24 sued in his individual and official capacity.

25
26 9. Defendant, Dr. Dickenson, M.D. is and was at all times mentioned
27 herein a physician employed by Medical Department a High Desert
28 State Prison . Dr. Dickenson, M.D. was legally responsible for

1 the care and treatment of all prisoners under referral by the
2 appropriate administrative medical procedures. Defendant Dr. Dickenson,
3 was in a position of authority whereby he knew or should have known
4 that his acts and / or omissions would subject plaintiff to
5 irreparable harm and denial of his rights under the laws of this
6 State and the U.S. Constitution. Defendant Dr. Dickenson, M.D. is
7 being sued in their individual and official capacity.

8

9 10. Defendant, Dial, M.D. is and was at all times mentioned herein
10 a physician employed by the Medical department at High Desert State
11 Prison. Dr. Dial, M.D. Dr. Dial was legally responsible for the
12 care and treatment of all prisoners under referral by the appropriate
13 administrative medical procedures. Defendant Dr. Dial, M.D. was in
14 a position of authority whereby knew or should have known that
15 his acts and / or omissions would subject plaintiff to irreparable
16 harm and denial of his rights under the laws of this state and the
17 U.S. Constitution. Defendant Dr. Dial, M.D. is being sued in their
18 individual and official capacity.

19

20 11. Defendant, Dr. James, M.D. is and was at all times mentioned
21 herein a physician employed by the Medical Department at High
22 Desert State Prison. Dr. James, M.D. was legally responsible for
23 the care and treatment of all prisoners under referral by the
24 appropriate administrative medical procedures. Defendant Dr. James
25 M.D. was in a position of authority whereby he knew or should have
26 known that his acts and or omissions would subject plaintiff to
27 irreparable harm and denial of his rights under the laws of this
28 State and the U.S. Constitution. Defendant Dr. James, M.D. is being

1 sued in their individual and official capacity.

2

3 12. Defendants, Dr. Jack St. Clair, M.D. Chief Medical Officer,
4 CMO-Dr. Karen Saylor, M.D. CMO-Dr. Rene Kanan, M.D. were and are
5 at all times mentioned herein at San Quentin State Prison, Defendant
6 CMO-Dr. Jack ST. Clair, M.D., CMO-Dr. Karen Saylor, M.D., CMO-Dr.
7 Rene Kanan, M.D. these defendants are was and is responsible for
8 all operations of the Medical Department at San Quentin state Prison.
9 They are also responsible for the care and treatment of all prisoners
10 under the umbrella of there authority . Defendants Dr. Jack ST. Clair
11 M.D. Dr. Karen Saylor, M.D. and Dr. Rene Kanan, M.D. were and are
12 in a position of authority where they knew or should have known that
13 there acts / or omissions of the Medical Department and its staff to
14 ward plaintiff's serious medical condition was such that plaintiff
15 would suffer irreparable injury and deny him the rithts afforded
16 him by the laws of this state and the U.S. Constitution. Defendants
17 CMO-Dr. Jack ST. Clair, M.D. CMO-DR. KaRen Saylor, M.D. and CMO-Dr.
18 Renen Kanan, M.D. are being sued in there individual and offical
19 capacity.

20

21 13. Defendant, Dr. sundarson, M.D. is and was at all times mentioned
22 herein a physician employed by the Medical Department at San Quentin
23 State Prison. Dr. Sundarson was legally responsible for the care
24 and treatment of all prisoners under referral by the appropriate
25 administrative medical procedures. Defendant Dr. sundarson, M.D.
26 was in a position of authority where by he knew or should have known
27 that his acts and / or omissions would subject plaintiff to
28 irreparable harm and denial of his rights under the laws of this

1 state and the U.S. Constitution. Defendant Dr. Sundarson, M.D. is
2 being sued in his individual and official capacity.

3

4 14. Defendant Dr. Wilson, M.D. is and was at all times mentioned
5 herein a physician employed by the Medical Department at San Quentin
6 State Prison. Dr. Wilson, M.D. was legally responsible for the care
7 and treatment of all prisoners under referral by the appropriate
8 administrative medical procedures. Defendant Dr. Wilson, M.D. was
9 in a position of authority where by he knew or shluld have known
10 that his acts and / or omissions would subject plaintiff to
11 irreparable harm and denial of his rights under the laws of this
12 state and the U.S. Constitution. Defendant Dr. Wilson, M.D. is being
13 sued in his individual and official capacity.

14

15 15. Defendant Dr. Clarene David, M.D. is and was at all times
16 mentioned herein a physician employed by the Medical Department at
17 San Quentin state Prison. Dr. Clarene David, M.D. was legally
18 responsible for the care and treatment of all prisoners under referral
19 by the appropriate administrative medical procedures. Defendant
20 Dr. Clarene David, M.D. was in a position of authority where by she
21 knew or should have known that her acts and / or omissions would
22 subject plaintiff to irreparable harm and denial of his rights under
23 the laws of this state and the U.S. Constitution. Defendant
24 Dr. Clarene David, M.D. is being sued in her individual and official
25 capacity.

26

27 16. Defendant Dr. Emami, M.D. is and was at all times mentioned
28 herein a physician employed by the Medical Department at San Quentin

1 State Prison. Dr. Emami, M.D. was legally responsible for the care
2 and treatment of all prisoners under referral by the appropriate
3 administrative medical procedures. Defendant Dr. Emami, M.D. was in
4 a position of authority where by he knew or should have known that
5 his acts and / or omissions would subjuect plaintiff to irreparable
6 harm and denial of his rights under the laws of this state and the
7 U.S. Constitution. defendant Dr.Emami, is being sued in his individual
8 and official capacity.

9

10 17. Defendant Dr. Slater, M.D. is and was at all times mentioned
11 herein a physician employed by the Medical Department at san Quentin
12 State Prison. Dr. Slater, M.D. was legally responsible for the care
13 and treatment of all prisoners under referral by the appropriate
14 administrative medical procedures. Defendant Dr. Slater,M.D. was in
15 a position of authority where by he knew or should have known that
16 his acts and / or omissions would subject plaintiff to irreparable
17 harm and denial of his rights under the laws of this state and the
18 U.S. Constitution. defendant Dr. Slater, M.D. is being sued in his
19 individual and official capacity.

20

21 18. Defendant Dr.Indu Zalpuri, M.D. is and was at all times
22 mentioned herein a physician employed by the Medical Department at
23 San Quentin State Prison. Dr. Indu Zalpuri, M.D. was legally
24 responsible for the care and treatment of all prisoners under
25 referral by the appropriate adiministrative medical procedures.
26 Defendant Dr. Indu Zalpuri, M.D. was in a position of authrity where
27 by she knew or should have known that her acts and / or omissions
28 would subject plaintiff to irreparable harm and denial of his rights

1 under the laws of this state and the U.S. Constitution. Defendant
2 Dr. Indu Zalpuri, M.D. is being sued in her individual and official
3 capacity.

4

5 19. Defendant Daszko, J. M.D. is and was at all times mentioned
6 herein a physician employed by the Medical Department at San Quentin
7 state Prison. Dr. Daszko. J. M.D. was legally responsible for the
8 care and treatment of all prisoners under referral by the
9 appropriate administrative medical procedures. Defendant Dr. Daszko,
10 J. M.D. was in a position of authority where by he knew or should
11 have known that his acts and / or omissions would subject plaintiff
12 to irreparable harm and denial of his rights under the laws of this
13 state and the u.S. Constitution. Defendant DR. Daszko, J. M.D. is
14 being sued in his individual and official capacity.

15

16 20. Defendant Dr. Corzine, M.D. is and was at all times mentioned
17 herein a physician employed by the Medical Department at San Quentin
18 state Prison. Dr. Corzine, M.D. was legally responsible for the care
19 and treatment of all prisoners under referral by the appropriate
20 administrative medical procedures. Defendant Dr. Corzine, M.D. was
21 in a position of authority where by he knew or should have known
22 that his acts and / or omissions would subject plaintiff to
23 irreparable harm and denial of his rights under the laws of this
24 state and the U.S.Constitution. defendant Dr. Corzine, M.D. is being
25 sued in his individual and official capacity.

26

27 21. Defendant Practitioner-Erickson, is and was at all times
28 mentioned herein a physician employed by the Medical Department at

1 San Quentin State Prison. Practitioner-Erickson, was legally
2 responsible for the care and treatment of all prisoners under
3 referral by the appropriate administrative medical procedures.
4 Defendant Practitioner-Erickson was in a position of authority where
5 by she knew or should have known that her acts and / or omissions
6 would subject plaintiff to irreparable harm and denial of his rights
7 under the laws of this state and the U.S. Constitution. Defendant
8 Practitioner-Erickson is being sued in her individual and official
9 capacity.

10

11 22. Defendant Practitioner Hopking is and was at all times
12 mentioned herein a Practitioner-Hopking employed by the Medical
13 Department at San Quentin State Prison. Practitioner-Hopking was
14 legally responsible for the care and treatment of all prisoners
15 under referral by the appropriate administrative medical procedures.
16 Defendant Practitioner-Hopking was in a position of authority where
17 by she knew or should have known that her acts and / or omissions
18 would subject plaintiff to irreparable harm and denial of his rights
19 under the laws of this state and the U.S. Constitution. Practitioner
20 Hopking is being sued in her individual and official capacity.

21

22 23. Defendant N. GRANNIS is and was at all times mentioned herein
23 the Chief of Inmate Appeals for the CDCR. Defendant GRANNIS is
24 responsible for the Administrative Review Process of the CDCR, and
25 for review of appeals submitted for Director's Level decisions. In
26 the instant case, Defendant GRANNIS took personal responsibility
27 for denial of plaintiff's grievances in regard to violations of the
28 Director's review of these matters. Defendant GRANNIS is in a

1 position of authority where by he knew, or should have known, that
2 the acts and / or omissions of the medical department and medical
3 staff was such that plaintiff would be subjected to irreparable
4 injury and be denied the protection of the laws of this State and
5 the U.S. Constitution. Defendant GRANNIS is being sued in his
6 individual and official capacity.

7

8 24. Defendants DOES 1 thru 10, inclusive, are included to be
9 defined at a later date pending lawful discovery and subsequent
10 knowledge of their existence and party to this action. These
11 defendants are currenrtly UNKNOWN NAMED defendants.

12

13 25. Plaintiff here with asserts that the aforementioned defendants
14 have acted in concert, conspiratorially, with callous disregard,
15 culpable state of mind, and with deliberate indifference to
16 plaintiff's health, welfare, and rights as afforded by the U.S.
17 Constitution. All named Defendants knew or should have known that
18 their acts and /or omissions would place plaintiff at substantial
19 risk of serious harm and failed to take reasonable measures to
20 abate it.

21

22

III.

HIGH DESERT STATE PRISON

24

STATEMENT OF FACTS

25 26. On and ablut March 2003, Plaintiffs was transferred from
26 Delano State Prison Reception Center to High Desert State Prison
27 Level #3, A-Yard. Plaintiff suffered with High Blood Pressure and
28 excruciating and debilitating Lower Back Pain, Neck, Left Shoulder

1 Elbow, Right & Left Knee, Left ankle, Spine, Osteoarthritis, aches,
2 pain, popping and Cracking-Joints, Chronic Cluster Head Aches, IBS
3 Irritable Bowel Syndrome, Chronic Constipation;

4

5 27. Plaintiff on July 2003, received various forms of diagnosis and
6 treatment from the defendants to this action which have fallen far
7 below minimal standards of care as prescribed by the laws of this
8 state, the contact of the U.S.Constitution, and the Minimum Stand
9 ards of decency of the evolving Society,

10

11 28. Plaintiff contends that while at HDSP. from July of 2003, and
12 June 28, 2005, Plaintiff was examined/treated by each of these
13 defendants, Doctor's Dr. Brown, Dr. Dickerson, Dr. Dial, Dr. James,
14 Dr. Roche, Dr. Jeffery Rohlwing, CMO-Dr. Richard Sandham, They order
15 ed X-Rays, Blood Test, to ascertain the cause of plaintiff's pain and
16 suffering, also ~~H-High out of Range-Elevated Alkaline phosphatase,~~
17 during that time period there was No diagnosis of plaintiff's malady
18 has been forthcoming from any of the named defendants. Plaintiff
19 assets that these same defendants have either prescribed, reviewed
20 Blood Lab Test, Renewed Sign & forwarded NOTIFICATION OF DIAGNOSTIC
21 TEST RESULTS, or otherwise advocated the prescription of pain
22 medication to plaintiff for his undiagnosed serious medical condition.

23

24 29. On November 3, 2003, Plaintiff filed an Inmate Appeal Form CDC-
25 1824, ADA-Log#03-2329, as a grievance to the aforementioned Medical
26 issues. Plaintiff alerted the Medical Department & physicians to the
27 fact that my pain and suffering was still on going. Plaintiff
28 further informed the physicians that the Ibuprofen and chlorzoxazone,

1 Motrin, Naproxen etc, prescribed to me were ineffective in relieving
2 me of my pain.

3

4 30. Plaintiff contends that while at HDSP and with in the ADA-Appeal
5 I have state, and requested Vioxx 50mgs or Celebrex 100mgs, medication
6 to help relieve the severe pain and suffering that stem from Osteo
7 arthritis this prognosis and the physician remarks to me. That was
8 some thing that I just had to live with and that there was nothing
9 else that they could do or give me for pain. Plaintiff submits that
10 this bears strongly on the inadequacy of the medical care provided
11 by defendants in this action.

12

13 31. Plsintigg reiterated my concerns that he was being denied
14 adequate medical care, was being treated with deliberate indifference
15 to his serious medical needs, was being improperly diagnosed, and
16 was being improperly medicated. It is well documened that none of
17 these physician Never ordered an specifie blood test to determined
18 the true cause of the H-High out of Rang-Elevated Alkaline phosphatase
19

20 32. Plaintiff had an examination by Dr. Jeffery Rphlfing who is an
21 Orthopedic Suregeon, He deals with Bones! Now out of all the other
22 Physicians Dr. Rohlfiging knew or should have known that once he seen
23 the Elevated Alkaline phosphatase. that ment that some thing is wrong
24 with the bones. This defendant as well as Dr. Dickson, M.D. Dr. Roche,
25 M.D. Chief physician & surgeon and Richard W. Sandham, M.D. Chief
26 Medial Officer Copies was sent to the warden, H.D.S.P-Health Care
27 Manage, H.D.S.P.- appeal coordinator, HDSP medical appeals analyst,
28 HDSP where sent copies of this appeal, and some even sign off on them.

1 These physician even checked boxes on Medical forms that I was in
2 normal range and I didn't require any follow up treatment and that
3 said actions along with others lead to the further significant harm
4 cause physical injury mental emotional injury.

5

6 33. Plaintiff contends that base upon information and belief. That
7 Dr. Jeffery rohlfing and orthopedic surgeon at High Desert state
8 Prison, in susaville, CA. fails under investigation by lawmakers at
9 the State Capitol. doctors who have spotty backgrounds and the
10 competency of state prison Doctors is Questioned. Dr. Rohlfing is on
11 that list. See "Exhibit" ;

12

13 34. Plaintiff, would submit that the facts belie the findings of
14 defendant N. GRANNIS and run contrary to adequacy espoused by the
15 defendant and the Medical Department as a whole, such as LVN, RN,
16 Nure Practitioner. physician's Assistant, one need only consider
17 the fact that from July 2003, - June 28, 2005, those years of
18 documented pain and suffering by plaintiff, the Blood Test & X-Rays
19 and visits with myriad of physicians, and the prascription of daily
20 pain medication over an extensive period of time clearly defines the
21 need for other Blood Test, Consultations and physical therapy, as
22 a medical necessity, the very fact that plaintiff was over 50 years
23 of age, with a family history with High Blood pressure, and chrinic
24 care patient should have been place on an list for other consultations
25 and referrals to find out the cause of the Elevated Alkaline
26 phosphatase is an admission by there "emerging pattern of inadequate
27 and seriously deficient physician quality" by the responsible
28 defendants that such is the case. Being that defendant's own review

1 of plaintiff's medical file show that all of plaintiff's Blood Test
2 in comparison, denote findings that appear to be still in H-High out
3 of Range, plaintiff would submit that the Information garnered by
4 medical staff from 2003, and the facts relevant to date, in 2007,
5 have not changed in any drastic form. plaintiff is place on a waiting
6 list for out side consultation, Due to denial delays & Obstructions
7 Plaintiff still suffers with debilitating pain for the last three
8 years and, only now, plaintiff is place on list for out side
9 consultation an act that may still not take place due to plaintiff's
10

11 III

12 San Quentin State Prison

13 STATEMENT OF FACTS

14 35. On or about June 28, 2005, Plaintiff was transferred from
15 High Desert State Prison to San Quentin State Prison. Plaintiff was
16 examined by Health Care Staff on duty at the Reception Center
17 screenings and Evaluations. Medical staff reviewed my Medical records
18 at that time.

19
20 36. Plaintiff contends that since June 28, 2005, to the present he
21 has received different diagnosis and treatment s from the defendants.
22 which has fallen below the minimal standard to medical practices and
23 ethical conduct as prescribed by the laws of this state, and of the
24 U.S.Constitution, and the Minimum Constitutional Standards of this
25 present day society.

26
27 37. Plaintiff contends that between June 28, 2005, and May 25, 2006,
28 defendants Dr. Sundarson, Dr. Wilson, Dr. David. Practitioner,

1 Erickson, & Hopking, Dr. Emami, Dr. Sakata, Never initiated a specific
2 Blood Test to find out the cause of the H-High out of Range Elevated
3 Alkaline phosphatase, and the constant intense suffering along with
4 debilitating Back pain, and other joints with in my Body. their has
5 been no diagnosis of plaintiff's malady. has been far coming from
6 any of the name defendant. plaintiff assets that these same defedants
7 have either ordered Blood Test, Reviewed Blood Test, prescribed,
8 renewed, or other wise recommend many prescrption of pain medication
9 to plaintiff for his diagnosed and undiagnosed for his serious
10 medical needs.

11
12 38. Plaintiff contends that there are various other strongly
13 inadequacy of medical care that was provided by the defendants with
14 in this action. Dr. Wilson, order an routine Colonoscopy August 16,
15 2005, it wasn't profromed untill august 24, 2006, over a Year.
16 delay in medical treatment. plaintiff was in substantial pain.
17

18 39. Plaintiff contends that due to various other inadequate medical
19 treatment, delays-Denial and Obstructions, by all the name defendants
20 Plaintiff filed an ADA-Americans with Disabilities Act, Appeal Log#
21 06-1277, which was forwarded to the CMO-Chief medical Officer, Jack
22 ST. Clair, between April 17, 2006, and May 17, 2006, the CMO was
23 removed from his position and Escorted off San Quentin grounsgs, and
24 replace by Dr. Karen Saylor, M.D. as new CMO, "See Exhibit No.
25

26 40. Plaintiff contends that he was denied an Colonscopy,substandard
27 care each time seen by Practitioner-Erickson, misdiagnosis plaintiff
28 with liver disease or damage and Hepatitis, Inadequate treatement

1 for H-High out of range Cholesterol, and fail to initiate an Blood
2 Test to determine the cause of the Elevated Alkaline phosphatase.
3

4 41. Plaintiff contends that Dr. Emami provided Inadequate medical
5 treatment when he fail to ascertain a Blood Test to find out the
6 cause of the Elevated Alkaline phosphatase.
7

8 42. Plaintiff contends that he was delayed on many occasion from
9 June 28, 2005, to present 2007, In receiving medical records in a
10 timely matter.
11

12 43. Plaintiff contends that he was examine on May 25, 2006, by
13 physician Dr. Michael Scott, who review the Blood Lab Test of the
14 Elevated Alkaline phosphatase and prescribed pain medication, and
15 ordered various other test and x-Rays and CT-Bone Scan, It suggested
16 that patients medical problems could be due to 1 of 3 ,OSTEOPENIA,
17 MULTIPLE MYELOMA and/or METASTATIC disease as blood test came in.
18 They strongly was leading towards Multiple Myeloma.
19

20 44. Plaintiff contends that he contacted the CMO-Dr. Saylor, M.D.
21 of my present medical crisis that I was in need of help to speed up
22 the treatment and an complaint about Dr. Wilson who denied pain
23 medication for my serious medical condition. June 19, 2006. I was
24 in chronic and serious pain.
25

26 45. Plaintiff contends that he was seen by Dr. Liz Suiter, M.D.
27 Dr. Shira Shavit, M.D. on August 29, 2006, They drafted a letter
28 from University of Californis,Hospital San Francisco, Calif. who

1 submitted a plan of treatment and recommendation, all so on August
2 29, 2006, I was seen by Dr. Zalpuri, who read the letter from the
3 medical consultants, But denied all the recommendation she even had
4 full knowledge before I was seen by her. she put me in substantial
5 risk of serious harm.

6

7 46. Plaintiff contends that on September 27, 2006, he was given
8 Inadequate medical treatment for CHOLESTEROL 341/550 by Practitioner
9 ERICKSON, and denied ordering any of the recommendations remmended
10 by the Doctor's from UCSF, put me in serious risk for an injury in
11 the present and future.

12

13 47. Plaintiff contends that Dr. GRANT read the plan & Recommendation
14 stated on August 29, 2006, UCSF, and initiate a Vitamin D deficiency
15 Blood Test work up on October 31, 2006, 60-days after the Recommen
16 dation.

17

18 48. Plaintiff contends that Dr. DASZKO, M.D. review the Lab results
19 on November 12, 2006, which showed Vitamin D-Levels was 8-IU below
20 the Reference Range 20-100, Suggest insufficiency and the need for
21 intense Supplementation Dr. DASZKO fail to follow the 33,000 IU
22 injection 2x'a week for 1-week, and then once a week for the Next
23 3-months. His contributory negligence helped bring about a personal
24 injury of an over load of vitamin D 208-IU is 108-over the reference
25 Range, 67, 000--50, 000, daily plus Toxicity, patients was order
26 to take 50,000, 2xaday=100,000IU a day Dr. DASZKO fail to respond
27 appropriately to my serious medical needs, and I would suffer some
28 harm and injury to my body.

1 49. Plaintiff contends that while under Dr. David care, her failure
2 to reduce the amount of Vitamin D before plaintiff complain of
3 Toxicity to her before she decreased the Vitamin D from 100,000
4 a day to 50,000 once a week. she known or should have known that
5 an over load of Vit D would cause serious harm to the patient.

6

7

8 50. Plaintiff contends that he was seen on two occasion March 1,07,
9 April 26, 2007, by an Endocrinologist, Dr. N. Madrilego, M.D. due
10 to Elevated Alkaline phosphatase and made Recommendation repeat
11 Vitamin D Blood Test, and Bone Densitometry Scan, Base upon Informat
12 ion and belief. the DEXA should have been done before Vitamin D was
13 started. on April 26, 2007 Dr. Madrilego Recommended that Plaintiff
14 be seen by an Bone Metabolism Expert, as of this date still continue
15 delays 120-days-4-Months.

16

17 51. Plaintiff contends that he was seen by another Endocrinologist
18 on May 24, 2007, Dr. O'Connor M.D. Doctor's Medical Center, Dr.
19 O'Connor was unable to give complete evaluation due to the fact
20 San Quentin Medical Department fail to privid up to date Blood Lab
21 Test , Dr. O'Connor recommended that I be seen by an Rheumatology
22 as of this date 90-days 3-Months delays.

23

24 52. Plaintiff contends that he was seen by Dr. O'Connor M.D.
25 Endocrinologist again on August 24, 2007, 90-days ago, Plaintiff
26 was not seen by the Rheumatology that he requested. Dr. O'Connor
27 now requested that I be seen by an GI and once again the Rheumatology
28 still waiting.

1 53. On September 26, 2006, Plaintiff filed on Inmate Appeal, (ADA)
2 Americans with Disabilities Act. Form CDC 1824, Log# SQ 06-2801, as
3 a grievance to all the aforementioned issues and ETC. Plaintiff to
4 alerted the Medical Department to the Facts that my pain and
5 suffering was still on going, and that his scheduled Consultation
6 have been long delays which constitutes deliberate indifference.
7 Plaintiff further informed the medical department that as he has
8 done on prescribed occasions over the past two in a half years that
9 the muscle relaxers prescribed to me were ineffective in relieving
10 me of my pain.

11
12 54. Plaintiff would submit that the facts belie the findings of all
13 the defendants known and unknown and ran contrary to adequacy
14 espoused by the defendants and the Medical department as a whole
15 frome High Desert to San Quentin. one need only consider the facts
16 that nearly three plus years of documented Elevated Alkaline
17 phosphatase, pain and suffering by plaintiff, the visits with a
18 myriad of physicians and the Multiple Blood Lab Test, X-rays, and
19 the prescription of daily pain medication over an extensive period
20 of time, clearly defines the need for experts and Spécialist
21 Consultation as a medical necessity. the very fact that plaintiff
22 was place on a waiting list for these consultations and referrals
23 is an admission by the responsible defendants that such is the case.
24 Being that defendant's own review of plaintiff's medical file show
25 that all of plaintiff's Blood Lab Test Results, Elevated Alkaline
26 phosspatase. Vitamin D deficiency was present, X-Rays, in comparison
27 denote findings that appear to be H-High out of Range, Plaintiff
28 would submit that the information garnered by all the phsicians

1 and medical staff from July 2003 and all the facts relevant to date
2 , in 2007, has worsen, and the disease has infiltrative into
3 multiple sites in the bones. plaintiff still is suffering from
4 debilitating pain and unable to find the cause for the Elevated
5 Alkaline phosphatase, and all the other medical issuse that are
6 associated with the elevated Alkaline phosphatase, osteoarthritis
7 superimposed degeneration bone disease for the last 3-plus years
8 and plaintiff has been suffering an ongoing harm. with belief that
9 some irreparable injury has happend that cannot be replaced or
10 restored, Plaintiff has been having emotional stree, due to
11 indequated medical treatment.

12

13 **IV. EXHAUSTION OF LEGAL REMEDIES**

14

15 55. Plaintiff, Raynell Carmichael used the prisoner procedure
16 available CDC 1824, (ADA) Americans with Disabilities Act, and
17 Inmate Appeal form CDCR 602-Log# 03-2329 at High Desert State Prison,
18 Susanville, CA. to try and solve the problem. On November 3, 2003,
19 Carmichael presented the facts relating to this complaint. on
20 December 30, 2003 got First Level response, denied, on February 3,
21 2004, got second Level from the Directior's Level Appeal decision
22 exhausts the administrative remedy available to the appellant with
23 in CDCR saying that the grievance had been denied. on May 5, 2004.

24

25 56. Plaintiff, Raynell Carmichael used the prisoner procedure
26 available CDCR 1824, (ADA) Americans with Disabilities Act, and
27 Inmate Appeal Form CDCR Log# CSQ-3-06-02801, at san Quentin State
28 Prison, San Quentin, CA. to try and solve the problem, on September

1 26, 2006, carmichael, presented the Facts relating to this complaint.
2 on November 17, 2006, got first level response PARTIALLY GRANTED, ON
3 July 2, 2007, got second level response is PARTIALLY GRANTED,
4 Plaintiff carmichael was sent a response from the Director's Level
5 Appeal decision which exhausts the administrative remedy available
6 to the appellant with in CDCR saying that the grievance had been
7 denied on August 16, 2007, ,

8

9 **LEGAL CLAIMS**

10

11 Defendant's acted with Deliberate Indifference to Plaintiff's
12 Serious Medical Needs in Violation of the Eighth Amendment of the
13 United States Constitution..

14

15 57. Plaintiff asserts that it is well established in Federal Law
16 that the denial of medical attention to prisoners constitutes an
17 Eighth Amendment Violatation if the denial amounts to Deliberate
18 Indifference to Serious Medical needs of prisoner. It is Further
19 well established that the delay of, or interference with, medical
20 treatment can also amount to deliberate indifference. Plaintiff like
21 wise submits that both federal district courts and 9th Circuit
22 findings support that where the prisoner is alleging that delay of
23 medical treatment evinces deliberate indifference, however, the
24 prisoner must show that the delayed to further injury. in the
25 instant case, the delay of defendants here with, and their deliberate
26 indifference to plaintiff's serious medical needs prolonged
27 plaintiff's serious medical needs.

28

1 58. Plaintiff asserts that although he was seen by medical personnel
2 from the medical department at High Desert State Prison and San
3 Quentin State Prison, all of them were qualified to exercise Judgment
4 about the Blood Lab Test H-High out of Range-Elevated Alkaline
5 phosphatase problem. This is evidenced by plaintiff medical Records
6 not having any specific Blood Test drawn to find out the cause of
7 the Elevated Alkaline Phosphatase or being placed on any waiting
8 list for Consultation with any specialist or Expert. TWO and Half 2½
9 years plus untreated to this action. Plaintiff would further submit
10 that, although he was seen by doctor's and Practitioner's, factors
11 such as their inability to properly diagnose his condition, their
12 failure to order appropriate Blood Lab Test, and failure of more
13 experienced defendants to examine plaintiff, interfered with his /her
14 exercise of Judgment. Plaintiff would further submit that defendant
15 exercised their judgment as to medical needs and outside consultation
16 by Bone Metabolism Expert, Rheumatolog Specialist, GI Specialist, or
17 an Orthopedic Specialist, but those judgments have not been carried
18 out as of September 27, 2007,

19
20 59, Plaintiff asserts that his condition cause him significant pain,
21 and that he has been forced to suffer with pain even above and
22 beyond the pain medication prescribed at one time, for nearly TWO &
23 a half 2½ years. Under Federal definitions, a serious medical need
24 has been defined as " one that has been diagnosed by a layperson
25 would easily recognize the necessity for a doctor's attention!"
26 plaintiff submits that both definitions apply to his claim.

27

28

1 60. Plaintiff therefore alleges that defendants at High Desert State
2 Prison, Doctor's , Dr. Rohlwing, Dr. Dickenson, Dr. Dial, Dr. James,
3 Dr. Roche, and all known and Unknown physician's et al. and San Quentin
4 State prison defendants Doctor's Dr. Sundarson, Dr. Wilson, Dr. David,
5 Dr. Emami, Dr. Slater, Dr. Indu Zalpur, Dr. Corzine, Dr. Daszko,
6 Practitioner-Erickson & Hopking knew or should have known that
7 Plaintiff's serious medical problem subjected him to pain and suffer
8 ing. Defendant's here with were not qualified to exercise judgment
9 about plaintiff's serious medical condition and factors existed that
10 interfered with the exercise of any judgment they might claim. Defendants
11 Defendants herewith, with culpable state of mind, subjected plaintiff
12 to unnecessary and wanton infliction of pain, in violation of Eighth
13 Amendment of the U.S.Constitution .

14

15 61. Defendants CMO-Chief Medical Officer's at High Desert State
16 Prison, CMO-Dr. Jack ST. Clair MD, CMO-Dr. Karen Saylor, MD. CMO-Dr.
17 Rene Kanan MD., all are medical professionals in positions of authority
18 where they knew or should have known that their acts/
19 Omissions, or the acts / Omissions of the staff they supervise would
20 place plaintiff in substantial risk of further injury. pain and
21 suffering, and took No Action to abate it. Defendants herewith either
22 refused to exercise judgment or their duty, or were not qualified to
23 do so, and subjected plaintiff to unnecessary and wanton infliction
24 of pain and emotional injury in violation of the Eighth Amendment
25 of the U.S. Constitution.

26

27 62. Defendants N. GRANNIS, as chief of Inmate Appeals Branch and
28 empowered to make findings of facts and law for Director's Level

1 review of Inmate appeals, was in a position of authority where he
2 knew or should have known that failure to remedy the grievances
3 submitted by plaintiff would subject plaintiff to unnecessary and
4 want infliction of pain and emotional injury in violation of the
5 U.S. Constitution, and took No Action to alleviate or abate it.

6

7 63. Defendants, RODERICK HICKMAN, and Jame E. Tiltion, as secretary
8 of the California Department of Corrections and Rehabilitations
9 (The Director of Corrections), are ultimately and legally responsible
10 for the care and treatment of all prisoners incarcerated in the
11 prisons of this state. They are likewise legally responsible for the
12 acts / omissions of all employees under the umbrella of this
13 authority whom act under color of state law. Defendants Hickman,
14 Tilton , were / are in a position of authority where they knew or
15 should have known that the acts / omissions of their subordinates
16 would subject plaintiff to unnecessary and wanton infliction of pain
17 and emotional injury in violation of the Eighth Amendment of the U.S.
18 Constitution, and took No Action to alleviate or abate it.

19

20 64. Defendant, Robert Sillen, is the Federal Receiver of the
21 Department of Correction and Rehabilitation "The California Prison
22 Health Care Receivership CORP." is ultimately and legally responsible
23 for the care and treatment of all prisoners incarcerated in the
24 prison of this state. He is likewise legally responsible for the
25 acts / omissions of all employees under the umbrella of his authority
26 whom act under color of state law. defendant, sillen was in a
27 position of authority where he knew or should have known that the
28 acts / omissions of his subordinates would subject plaintiff to

1 unnecessary and wanton infliction of pain and emotional injury in
2 violation of the Eighth Amendment of the U.S.Constitution, and took
3 No Action to alleviate or abate it.

4

5 65. Plaintiff asserts that all named defendants had a duty to ensure
6 patient safety and security, his care and treatment, and his right
7 to be Free from Gruel and unusual punishments.

8

9 66. The plaintiff has no plain, adequate or complete remedy at Law
10 to redress the wrongs described herein. Plaintiff has been and will
11 continue to be irreparably injured by the conduct of the defendants
12 unless this court grants the declaratory and injunctive relief which
13 plaintiff seeks.

14

15 PRAYER FOR RELIEF

16 WHEREFORE, Plaintiff respecfully prays that this court enter a
17 judgment granting plaintiff a judgment declaring that defendants,
18 and each of them, through individual and collective acts practices
19 and omissions complained of here in subjected plaintiff to unnecessary
20 and wanton infliction of pain and emotional injury in violation of the
21 Eighth Amendment of the U.S.Constitution; Issue a service order.

22

23 67. That the court issue a TRO or a Preliminary injunction prohibit
24 ing defendants, their successors in office, agents and employees, and
25 all other persons in active concert from continuing to deny, delay
26 and Obstructions of plaintiff consultation for Bone Metabolism Expert,
27 rheumatology consultation, Specialist, GI-specialist, MRI, and a
28 Orthopedic Specialist. and plaintiff adequate medical car; to be

1 treated all at UCSF-University of California , San Francisco, Hospital.

2

3 68. That the court award Compensatory Damages in the amount of
4 \$ 850,000 ;against each defendant, jointly and severally. for
5 the wanton infliction of pain and the mental and emotional distress
6 caused by defendants, See my notes

7

8 69. Punitive damages in the amount of \$.250,000 ; against each
9 defendant for their reckless and deliberate indifference to plaintiff
10 's substantive rights;

11

12 70. A jury trial on all issues triable by jury;

13

14 71. Plaintiff's cost of this suit / all Attorney fees;

15

16 72. Any additional relief this court may deems just, proper, and
17 equitable.

18

19 73. Respectfully Submitted this 30 ,day of October ,2007,

20 /s/ Raynell Carmichael
Raynell Carmichael, D-25366
San Quentin State Prison-2N-1-L
San Quentin, CA. 94974
In Propria Persona

23

24 verification

25 I have read the foregoing complaint and here by verity that the
26 matters alleged therein are true, except as to matters alleged on
27 information and belief, and, as to those, I believe them to be true.
28 I certify under penalty of perjury that the foregoing is true and

1 correct.

2

3 Executed at, San Quentin California on date: OCTOBER 30, 2007,

4

5

Signature: Raynell Carmichael

Raynell Carmichael-Plaintiff

6

7

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FILED

NOV - 6 2007

RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIADECLARATION OF SERVICE BY MAIL

CV 07

5622 CW

I, DARRYL LEE GOLDSTEIN

Printed Name of Declarant

, the undersigned, declare:

I am over the age of 18 years, a citizen of the United States of America, and am not a party to the cause within. My residence address is:

CDC No. D-25366Housing 2-N-1-LSan Quentin State Prison
San Quentin, CA 94974

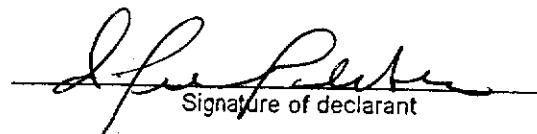
E-filing

On October30, 2007Month/Day Year RE: EARLY SETTLEMENT PROGRAM

1983-Civil Rights Complaint, Complaint under the Civil rights Act, 42 U.S.C. §§ 1983, Declaration of Raynell Carmichael In Support of Plaintiff's serious Medical Condion, Motion For Temporay Restraing Order, Menorandum Of Law In Support Motion For A TRO And Preliminary Injunction, Declaration In Support Of Plaintiff's Motion for A Temporay Restraing Order And Preliminary Injunction, Plaintiff Motion For The Court To take Judicial Notice -Fed Rul Evid. Section-201, on the parties and at the addresses described below by placing the pleadings in a sealed envelope, with postage fully prepaid, and presented said item(s) to Corrections Department staff for mailing in the United States Mail as per the rules and regulations governing outgoing legal mail at San Quentin State Prison.

OFFICE OF THE CLERK, U.S. DISTRICTNORTHERN DISTRICT OF CALIFORNIA450 GOLDEN GATE AVENUESAN FRANCISCO, CALIFORNIA, 94102

I swear under penalty of perjury that the foregoing is true of my own personal knowledge. Executed on this 30 day of October, 2007, at San Quentin, CA, County of Marin.



Signature of declarant